

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

I. CLAIM STATUS AND AMENDMENTS

Claims 4-9 were pending in this application when last examined.

Claims 4-9 were examined on the merits and stand rejected.

Claim 7 is amended to recite steps for testing and comparing to a control sample.

Support for this amendment can be found on page 11, line 19, to page 12, line 10, and page 16, lines 6-23, of the specification as filed.

No new matter has been added.

II. INFORMATION DISCLOSURE STATEMENT

Applicants respectfully request that the Examiner return an initialed copy of the PTO-1449 Form submitted with the Information Disclosure Statement of February 8, 2005.

III. FOREIGN PRIORITY

Enclosed herewith is a verified English translation of JP2002/231999. Applicants note that the claim for foreign priority is now perfected.

IV. INDEFINITENESS REJECTIONS

On page 3 of the Office Action, claims 7-9 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claim 7 has been amended to recite steps for testing and comparing to a control sample. Therefore, this rejection is overcome.

V. OBVIOUSNESS REJECTION

On pages 4-7, claims 4-9 were rejected under 35 U.S.C. § 103(a) as obvious over Spiegelman et al. and Huss et al. or Hentschke et al.

On pages 7-10, claims 4-9 were rejected under 35 U.S.C. § 103(a) as obvious over Spiegelman et al., Vega et al. and Saldek et al.

Applicants respectfully traverse this rejection.

Applicants note that an English translation of JP2002/231999 has been submitted with this response. Therefore, the claim for foreign priority has been perfected. Applicants further note that the priority document has a filing date of August 8, 2002. This filing date removes Spiegelman et al. (published July 3, 2003), Huss et al. (published August 13, 2002) and Henschke et al. (published October 2002) as prior art. Therefore, these rejections are overcome.

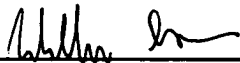
CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested.

If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

Akira KAKIZUKA et al.

By: 

William R. Schmidt, II
Registration No. 58,327
Attorney for Applicants

WRS/lc
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
November 10, 2008

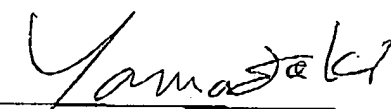
ATTACHMENTS

- A. Verified English translation of JP 2002/231999

CERTIFICATE

I, Shigeaki YAMAZAKI, a citizen of Japan, residing at 4-3-14, Kudan-Kita, Chiyoda-ku, Tokyo, JAPAN hereby certify that I am conversant with the English and Japanese language, and I further certify that to the best of my knowledge and belief attached herewith is a true and correct English translation of the Japanese Patent Application No. 231999/2002.

Signed this 7th day of October, 2008



Shigeaki YAMAZAKI